

IMPERIUM PATENT WORKS  
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Attorneys for Plaintiff and Counterdefendant  
ZINUS, INC.

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
SAN JOSE DIVISION

ZINUS, INC., a California corporation,

Plaintiff,  
v.

SIMMONS BEDDING COMPANY, a  
Delaware corporation, and DREAMWELL,  
LTD., a limited liability company of  
Nevada,

Defendants.

AND RELATED COUNTERCLAIMS

Case No. 07-CV-03012 PVT

**[PROPOSED] ORDER GRANTING  
ZINUS, INC.'S MOTION FOR  
SUMMARY ADJUDICATION  
OF NON-INFRINGEMENT**

The Honorable Patricia V. Trumbull

After having considered the motion, the papers filed in support of and in opposition to the motion, and having heard the arguments of the parties' counsel, the Court finds that the Swirl Wrap packaging method as defined in Zinus' Memorandum of Points and Authorities and in the accompanying declaration of Scott Reeves does not fall within the scope of any claim of U.S. Patent No. Re. 36,142, either literally or under the doctrine of equivalents.

IT IS HEREBY ORDERED that the Motion for Summary Adjudication of Non-Infringement brought by plaintiff and counterdefendant Zinus, Inc. is GRANTED.

Dated: \_\_\_\_\_, 2007

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The Honorable Patricia V. Trumbull  
United States Magistrate Judge

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INC.'S MOTION FOR SUMMARY  
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